

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

C. GORDON DILLARD,  
Plaintiff,

No. 1:13-cv-373-CL

v.

THE STATE OF OREGON, et al.,  
Defendants.

**ORDER**

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**PANNER, District Judge:**

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). When either party objects to any portion of a Magistrate Judge's Report and Recommendation, the district court makes a de novo determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981).

Here, plaintiff objects to the Report and Recommendation, so I have reviewed this matter de novo. I agree with the Report and Recommendation that the State of Oregon is entitled to Eleventh

Amendment immunity. Plaintiff's claims against the Attorney General of Oregon must be dismissed with prejudice because plaintiff cannot state a claim against Ellen Rosenblum, the current Attorney General, or John Kroger, the Attorney General during plaintiff's prosecution. Because of prosecutorial immunity, plaintiff's claims against District Attorney Stephen Campbell and Assistant District Attorney Michael Sanchez must also be dismissed with prejudice.

Plaintiff may file an amended complaint within thirty days, following the guidelines in the Report and Recommendation. Failure to file a timely amended complaint will result in dismissal of this action with prejudice.

#### CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#35) is adopted. Defendants' motion to dismiss (#22) is granted, and the remaining defendants are dismissed sua sponte. Plaintiff's claims are dismissed with prejudice, except the claims for search and seizure violations and malicious prosecution, which are dismissed without prejudice. Plaintiff may file an amended complaint within thirty days.

IT IS SO ORDERED.

DATED this 8 day of October, 2013.



OWEN M. PANNER  
U.S. DISTRICT JUDGE